

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

HON. MARGARET H. DOWNIE

CLERK OF THE COURT  
L. Rasmussen  
Deputy

FILED: 03/22/2006

ROLLING HILLS CHARTER SCHOOL

LEONIDAS G CONDOS

v.

ARIZONA STATE BOARD FOR CHARTER  
SCHOOLS (001)

KIM S ANDERSON

OFFICE OF ADMINISTRATIVE  
HEARINGS

**RULING**

Plaintiff Rolling Hills Charter School (hereafter, “plaintiff” or “Rolling Hills”) appeals from a decision by defendant Arizona State Board for Charter Schools (hereafter, “Board”) revoking its Charter Contract. This court has jurisdiction over the appeal pursuant to the Administrative Review Act, A.R.S. §§ 12-901 *et seq.* The court has considered the record from the administrative proceedings, as well as the parties’ appellate memoranda and the arguments of counsel.

**Factual and Procedural Background**

Paulden Elementary School (hereafter, “School”) is a charter school established pursuant to A.R.S. §§ 15-181, *et seq.* Rolling Hills is a non-profit corporation that holds the charter for the School. Pursuant to A.R.S. § 15-183 and the Charter Contract, the Board sponsored the Charter Operator<sup>1</sup> to operate one school site to serve students in grades K-4, with grade 5 to be added in the second year of operation. The Charter Contract was effective May 29, 2001, and the School began operating in August of 2001. On July 28, 2003, the Charter Contract was amended to add sixth grade.

Pursuant to A.R.S. § 15-914, the School must undergo an annual audit by an independent certified public accountant and must complete a legal compliance questionnaire. Rolling Hills

---

<sup>1</sup> The Charter Contract was signed by Dennis Deliman as the Charter Representative. On October 5, 2001, the Charter Contract was amended to add Kay Deliman as Charter Representative.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

retained the accounting firm of Ball and McGraw, P.C. to conduct its audit and legal compliance questionnaire for the fiscal year ending June 30, 2003.<sup>2</sup> Ball & McGraw issued its audit on January 8, 2004 and completed the legal compliance questionnaire on March 30, 2004. The “testing date” for the 2003 legal compliance questionnaire (i.e., the date by which compliance was measured) was January 8, 2004. Ball & McGraw submitted the 2003 audit and legal compliance questionnaire to the Board on March 30, 2004.

Ball & McGraw found that Rolling Hills was not in compliance with statutory and contractual requirements in the areas of Personnel, Classroom Site Fund, Student Attendance Reporting, and Open Meeting Laws. On June 3, 2004, the Board issued a Notice of Intent to Revoke Charter. The Notice alleged, *inter alia*:

- Rolling Hills violated A.R.S. § 15-183(C)(4) by: (1) employing persons to engage in instructional work directly as a classroom, laboratory, or other teacher without a valid fingerprint clearance card and; (2) employing other personnel without fingerprint and statewide criminal history information checks.
- Rolling Hills violated the terms of its Charter Contract by failing to conduct fingerprint and criminal history information checks and maintain up-to-date fingerprints for all members of its governing body.
- Rolling Hills violated A.R.S. §§ 38-431.01 and 38-431.02 by failing to maintain: (1) a record of board meeting notices; and (2) minutes for one board meeting.
- Rolling Hills violated A.R.S. § 15-977 by failing to properly allocate or track Classroom Site Fund monies.
- Rolling Hills violated A.R.S. §§ 15-185, 15-901, and 15-902 by failing to accurately report student memberships and absences to the Arizona Department of Education.

An evidentiary hearing was convened through the Office of Administrative Hearings. Administrative Law Judge (hereafter, “ALJ”) Daniel Martin presided over that proceeding.<sup>3</sup> On April 5, 2005, the ALJ issued his report. Although he found that Rolling Hills had violated certain statutory requirements and terms of its Charter Contract, the ALJ recommended that no disciplinary action be taken. On May 9, 2005, the Board met to consider the ALJ’s report. It voted to reject the ALJ’s recommendation and to revoke Rolling Hills’ charter. On June 10, 2005, Rolling Hills filed its complaint for judicial review in this court.

---

<sup>2</sup> The fiscal year ending June 30, 2003 coincided with the end of the School’s second year of operations.

<sup>3</sup> The evidentiary hearing took place on November 8, 2004, December 14, 2004, and January 19, 2005.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

**Analysis**

A.R.S. § 12-910(E) defines the scope of judicial review:

The court may affirm, reverse, modify or vacate and remand the agency action. The court shall affirm the agency action unless after reviewing the administrative record and supplementing evidence presented at the evidentiary hearing the court concludes that the action is not supported by substantial evidence, is contrary to law, is arbitrary and capricious or is an abuse of discretion.

There is a threshold legal issue for the court to resolve regarding A.R.S. § 15-183(I), which reads, in relevant part:

A sponsor . . . may revoke a charter at any time if the charter school breaches one or more provisions of its charter. At least ninety days before the effective date of the proposed revocation the sponsor shall give written notice to the operator of the charter school of its intent to revoke the charter. . . . The notice shall incorporate a statement of reasons for the proposed revocation of the charter. The sponsor shall allow the charter school at least ninety days to correct the problems associated with the reasons for the proposed revocation of the charter. The final determination of whether to revoke the charter shall be made at a public hearing called for such purpose.

Plaintiff contends that this statutory provision is ambiguous and susceptible of two interpretations:

First, the statute could be interpreted to mean that the school has, at a minimum, ninety days to cure the violations and if the school cures the violations, the school can avoid revocation of its charter. Alternatively, the statute could be read to mean that the ASBCS is entitled to make the final determination and may choose to revoke a charter despite any efforts that a charter school made to cure the violations.

*Plaintiff's Opening Brief, p. 13.*

Plaintiff contends that, because the courts have not yet interpreted A.R.S. § 15-183(I), the court should look to other statutes with curative clauses for guidance. However, Rolling Hills' reliance on A.R.S. § 15-539 is misplaced. That statute, which articulates certain requirements and procedures for dismissing certified teachers, expressly confers a "cure" opportunity that can obviate the basis for dismissal. A.R.S. § 15-539(C) provides:

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

The written preliminary notice of inadequacy of classroom performance shall allow the teacher not less than eighty-five instructional days within which to correct the inadequacy and overcome the grounds for the charge. If within the time specified in the written preliminary notice of inadequacy of classroom performance the teacher does not demonstrate adequate classroom performance, the governing board shall dismiss the teacher . . . **If the teacher demonstrates adequate classroom performance during the period allowed to correct such deficiencies as specified in the written preliminary notice of inadequacy of classroom performance, the governing board may not dismiss the teacher for reasons specified in the written preliminary notice of inadequacy of classroom performance.** [emphasis added]

A.R.S. § 15-539(C) demonstrates that, when the Legislature intends for a “cure” period to obviate the contemplated disciplinary action in the educational arena, it knows how to clearly say so. The fact that A.R.S. § 15-539(C) and A.R.S. § 15-183(I) both appear in Title 15 (“Education”) of the Arizona Revised Statutes further supports this notion. *See Arizona Board of Regents v. State ex rel. State of Arizona Public Safety Retirement Fund Manager Administrator*, 160 Ariz. 150, 771 P.2d 880 (App. 1989) (where the Legislature has specifically used a term or provision in certain places within a statute and excluded it in another place, the courts will not read that term into the section from which it has been excluded).

Courts will not read into a statute something that is not within the manifest intent of the legislature as indicated by the statute itself, nor will the courts inflate, expand, stretch, or extend a statute to matters not falling within its express provisions. *City of Tempe v. Fleming*, 168 Ariz. 454, 815 P.2d 1 (App. 1991). No realistic reading of the statute supports the notion that remedial action taken during the “cure period” prevents the Board from proceeding with the originally-contemplated revocation. If the ALJ or the Board had refused to consider evidence regarding the School’s remedial efforts, such action would render the statutory cure opportunity meaningless. In the case at bar, however, both the ALJ and the Board considered extensive evidence regarding the School’s efforts at curing its deficiencies -- through and including the dates of the evidentiary hearing, including comprehensive information regarding the 2004 audit results.

Having determined that A.R.S. § 15-183(I) did not pose a legal impediment to the revocation decision, the court must affirm that action unless the Board’s action “is not supported by substantial evidence, is contrary to law, is arbitrary and capricious or is an abuse of discretion.” A.R.S. § 12-901(E). It is the *Board’s* final decision that is subject to judicial review, not the ALJ’s recommendations. *See Smith v. Arizona Long Term Care System*, 207 Ariz. 217, 84 P.3d 482 (App. 2004) (correct standard of review following AHCCCS Director’s reversal of ALJ decision was whether *Director’s* decision was supported by substantial evidence, not whether ALJ’s decision was).

In determining the propriety of the Board’s action, this court reviews the record to determine whether there has been “unreasoning action, without consideration and in disregard

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

for facts and circumstances; where there is room for two opinions, the action is not arbitrary or capricious if exercised honestly and upon due consideration, even though it may be believed that an erroneous conclusion has been reached.” *Petras v. Arizona State Liquor Board*, 129 Ariz. 449, 452, 631 P.2d 1107, 1110 (App. 1981), *quoting Tucson Public Schools, District No. 1 of Pima County v. Green*, 17 Ariz. App. 91, 94, 495 P.2d 861, 864 (1972). A reviewing court views the evidence in the light most favorable to upholding the agency’s decision and will affirm if the decision is supported by any reasonable interpretation of the record. *See Baca v. Arizona Dept. of Economic Security*, 191 Ariz. 43, 951 P.2d 1235 (App. 1998). This court does not function as a “super agency” and may not substitute its own judgment for that of the Board – especially where factual questions and agency expertise are involved. *See DeGroot v. Arizona Racing Comm’n*, 141 Ariz. 331, 686 P.2d 1301 (App. 1984).

The Alleged Violations

The Notice of Intent to Revoke Charter alleged misconduct that can be generically categorized as: fingerprinting deficiencies, Open Meeting Law violations, misallocation and tracking of Classroom Site Fund monies, and problems with student attendance reporting. The Board found all of the proven violations troubling. Appropriately, though, it focused heavily on the following fingerprint-related violations identified in the 2003 audit:<sup>4</sup>

- Out of seven teachers and teachers’ aides employed by the School, only four had valid fingerprint clearance cards.
- Four other School employees lacked necessary fingerprint and statewide criminal history information checks.

The court first considers the issue of fingerprinting *viz.* instructional staff. A.R.S. § 15-183(C)(4) requires that “[a]ll persons engaged in instructional work directly as a classroom, laboratory or other teacher or indirectly as a supervisory teacher, speech therapist or principal shall have a valid fingerprint clearance card that is issue pursuant to [A.R.S. § 41-1758].”<sup>5</sup> Plaintiff does not dispute the fact that, as of the relevant compliance date, three School instructional staff members did not hold fingerprint clearance cards. Those employees were Sherry Bonner, Jacqueline Johnson, and Elizabeth Wahlstrom. Bonner began her employment as a teacher in July of 2001 and was required to apply for a fingerprint clearance card by October 1, 2002. Yet Bonner did not obtain her clearance card until May 27, 2004. Johnson was employed as a teacher during the fiscal year ending June 30, 2003. As of the January 8, 2004 testing date, Johnson had been teaching at the School for more than seven months without the required

---

<sup>4</sup> The allegation that the School failed to comply with fingerprinting requirements as to governing board members was not proven at the evidentiary hearing and was not a basis for the Board’s ultimate revocation decision.

<sup>5</sup> When this provision was enacted in August of 2002, the session law required existing instructional staff to obtain the required fingerprint clearance card no later than October 1, 2002.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

fingerprint clearance. Wahlstrom performed various instructional duties and worked for approximately 13 months without the necessary fingerprint clearance.

The School contended below that the fingerprint laws that became effective for instructional personnel on October 1, 2002 were “very confusing.” However, competent evidence supports the following findings by the Board:

- In September 2003 and November 2003, the Board posted information regarding the new fingerprint requirements on its website. Additionally, such information was transmitted electronically to Mr. Deliman as the Charter Representative. (Board’s finding of fact #15)
- Information regarding the new fingerprint requirements had also been posted on the Department of Education’s website in August 2002. (Board’s finding of fact #15)
- By letter dated November 19, 2003, the Board reminded Rolling Hills of the requirement that it obtain fingerprint clearance cards for instructional staff. The letter stated, *inter alia*: “Our Board has taken this issue very seriously and has been monitoring each school’s compliance during staff site visits and has added fingerprint compliance as a portion of the Legal Compliance Questionnaire for the annual audit.” (Board’s finding of fact #16)
- Rolling Hills knew or should have known in and following August 2002 that it was required to obtain fingerprint clearance cards for all instructional staff. (Board’s finding of fact #17)

The Board also considered plaintiff’s subsequent efforts to comply with the fingerprinting requirements – including the 2004 audit finding that 100% of Rolling Hills’ instructional staff held the necessary fingerprint clearance cards.

The evidence established that the School also failed to comply with the requirement for background checks on non-instructional staff. That requirement, articulated in A.R.S. § 15-183(C)(4), has remained unchanged since its enactment in 1995. Competent evidence supports the following findings by the Board:

- Prior to the enactment of A.R.S. § 15-183(C)(4) in August of 2002, existing law required that all non-certified personnel be fingerprint-checked pursuant to A.R.S. § 15-512. (Board’s finding of fact #21)

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

- By letter dated November 19, 2003, the Board reminded Rolling Hills about the requirement for criminal background checks on all of its non-instructional personnel. (Board's finding of fact #22)
- Rolling Hills should have known throughout the fiscal year ending June 30, 2003 that it was required to obtain criminal background checks on certain of its personnel (on non-certificated personnel in July and August 2002; on non-instructional personnel in September 2002 through June 2003. (Board's finding of fact #23)
- Rolling Hills should have known throughout the fiscal year ending June 30, 2004 that it was required to obtain criminal background checks on all of its non-instructional personnel. (Board's finding of fact #23)

Plaintiff does not dispute the fact that it did not obtain timely criminal background checks on at least three of its non-instructional employees: Danny Deliman, Francisca Cebreros, and Megan Bussa. As of the testing date, Deliman had performed maintenance and construction work at the School for almost nine months without the required background check. Cebreros was employed as a school custodian and worked for over two years without a criminal background check as of the testing date. Bussa also worked as a custodian without the required check for approximately 10 months as of the testing date.

The Board considered plaintiff's subsequent efforts to comply with the fingerprinting requirements for non-instructional staff. The 2004 audit disclosed that Rolling Hills had employed seven non-instructional staff during the fiscal year ending June 30, 2004 for whom no criminal background checks had been obtained.<sup>6</sup> The three employees who were at issue in the 2003 audit *still* had no criminal background checks. Prior to the evidentiary hearing, Rolling Hills terminated these seven employees "in order to maintain compliance prior to the finalization of the audit and prior to the evidentiary hearing."<sup>7</sup>

The Notice of Intent to Revoke Charter also alleged that plaintiff violated open meeting laws by failing to maintain: (1) a record of governing board meeting notices; and (2) minutes for one governing board meeting. Plaintiff claims that, "as a private contractor with the state (like any other vendor performing a service) it should not be obligated to comply with Open Meeting Laws."<sup>8</sup> Rolling Hills' argument is without legal merit. A charter school is in a vastly different position from a vendor who performs a service for the state. As a public body, the governing board of a charter school must comply with A.R.S. §§ 38-431, *et seq.* See also Attorney General Opinion I95-10 (1995).

---

<sup>6</sup> Danny Deliman, Francisca Cebreros, Megan Bussa, Alicia Acosta, Helene Disney, Jacy Kabbel, and Angelina Wahlstrom.

<sup>7</sup> Plaintiff's Opening Brief, p. 9.

<sup>8</sup> Plaintiff's Opening Brief, p. 10.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

Plaintiff was required to provide proper notice of its governing board's meetings and to either record or take minutes of those meetings. The Board's findings regarding open meeting law violations are supported by substantial evidence. Evidence adduced at the evidentiary hearing reflected that plaintiff was in compliance with open meeting laws for the time period encompassed by the 2004 audit.

The Notice of Intent to Revoke Charter also alleged that plaintiff failed to properly allocate and track Classroom Site Fund ("CSF") monies as required by A.R.S. § 15-977.<sup>9</sup> Charter schools must maintain detailed records of CSF revenues and expenses and track beginning and ending balances using three specific project codes to ensure proper use of the funds. Any unspent CSF monies at fiscal year end may be used in future years, but they must be carried forward using specific project codes to ensure appropriate use in the future. The record demonstrated that Rolling Hills made no CSF expenditures during the audit year and that the School had not properly carried forward its CSF for the year ending June 30, 2002. Rolling Hills had a total CSF carryover in the amount of \$16,501.34, including a receivable of \$3,755.40, and that the School's available cash as of June 30, 2003 was -\$344.20, thus creating a cash shortfall of \$13,090.14. However, Ball & McGraw also found that Rolling Hills had not improperly spent CSF monies during the fiscal year ending June 30, 2003.<sup>10</sup> Evidence from the 2004 audit demonstrated that plaintiff was in compliance with the CSF requirements at that time.

Finally, substantial evidence supports the Board's finding that Rolling Hills failed to accurately and timely report student memberships and absences to the Arizona Department of Education, in violation of A.R.S. §§ 15-185, 15-901, and 15-902. The ALJ found (and the Board agreed) that, "Because charter schools are funded based on the number of children attending the school, accurate student attendance reporting is extremely important." *Finding of Fact no. 54*. Attendance at charter schools is based on a "student count," which in turn is based on the actual average daily membership or the adjusted average daily membership of the charter school. *See* A.R.S. § 15-185(B)(2). Actual average daily membership and adjusted average daily membership are determined based on a combination of factors, including the number of students, student attendance, absences and withdrawals. *See* A.R.S. §§ 15-901 and 15-902. Charter schools are required to electronically report student attendance data to the Arizona Department of Education every twenty days.

Plaintiff did not dispute the reporting allegations, but argued that it encountered technical difficulties with the required computer program and experienced changes in personnel that contributed to the discrepancies. The ALJ (and later, the Board) found no merit to the first contention, stating:

---

<sup>9</sup> The Classroom Site Fund is a fund from which schools receive money to be used for teacher compensation increases based on performance, teacher base salary increases, and maintenance and operation purposes.

<sup>10</sup> The ALJ and the Board concurred with this finding.



SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

Rolling Hills contended that technical difficulties and errors with SAIS were the primary cause of its inaccurate reporting; however, the Administrative Law Judge finds such contention to lack merit. The weight of the evidence presented at hearing demonstrated that the reporting inaccuracies were primarily attributable to numerous personnel changes coupled with insufficient training of the attendance clerks.

Finding of Fact no. 58. After the 2003 audit, Rolling Hills remedied the reporting problems, and the 2004 audit found it to be in compliance with all reporting requirements.

The record supports the Board's findings of fact and conclusions of law regarding inaccurate reporting of student memberships and attendance.

*The Revocation Decision*

A.R.S. § 41-1092.08(B) specifically grants the Board the authority to accept, reject, or modify an ALJ's recommended decision. The Board's May 9, 2005 Order addresses every finding of fact and conclusion of law contained in the ALJ's report – specifically adopting, amending, or rejecting each. When the ALJ's findings were rejected or modified, the Board provided an explanation for its decision. The Board also explained why it concluded that revocation of plaintiff's Charter Contract was necessary:

The Board has the responsibility to enforce the laws that are in place to try to prevent harm to children. Fingerprinting and checking the background of instructional and non-instructional staff are of seminal importance to the health and safety of children. It is for this reason that the Board has consistently taken the opinion that fingerprinting is of the utmost importance to the health and safety [sic] children. In this case the Board recognizes that the school was operating for a significant period of time without properly fingerprinting its personnel even after it had received prior notification.

Further, in the Board's opinion the array and severity of fingerprinting violations, along with the other violations (e.g. open meeting law and student attendance reporting) demonstrate a severe misunderstanding and disregard for the law and creates concern about the school's ability to comply with regulations generally. Thus, the Board believes that the evidence and the severity of the issues presented provide a substantial basis for the revocation of the charter.

Courts should "show a certain degree of deference to the judgment of the agency based upon the accumulated experience and expertise of its members." *Croft v. Arizona State Board of Dental Examiners*, 157 Ariz. 203, 208, 755 P.2d 1191, 1196 (App. 1988). Governance and oversight of charter schools is a specialized area. Even if this court were permitted to substitute its opinion for that of the Board, it would be impossible to disagree with the notion that "[f]ingerprinting and checking the background of instructional and non-instructional staff are of

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

seminal importance to the health and safety of children.”<sup>11</sup> Moreover, the fingerprinting violations were extreme. Three of the School’s instructional staff worked directly with children for anywhere from seven months to twenty months without the required clearances. Three of the School’s non-instructional staff worked from seventeen months to several years without the necessary criminal background checks.<sup>12</sup>

While the non-fingerprinting violations appear at first blush to be less significant, the Board could reasonably infer from the totality of circumstances that they demonstrated “a severe misunderstanding and disregard for the law” and gave rise to legitimate concern regarding plaintiff’s “ability to comply with regulations generally.”<sup>13</sup>

The ALJ and the Board differed in their views about the weight to be accorded to the School’s remedial efforts. Reasonable minds could differ in this regard. Moreover, the evidence regarding plaintiff’s remedial efforts was not entirely positive. The number of non-instructional staff for whom Rolling Hills failed to obtain criminal history information checks had more than doubled as of the 2004 audit. That audit revealed that the three non-instructional staff at issue in the 2003 audit continued their employment at the School without the necessary criminal background checks. Additionally, the four “new” non-instructional staff employed at the time of the evidentiary hearing had worked at the School for anywhere from three weeks to two months before Rolling Hills submitted their fingerprints for the requisite background checks. The Board was entitled to take such matters into consideration when weighing the appropriate outcome.

Whatever one’s view of the substantive merits of this dispute, the record reflects that the underlying proceedings entailed fair, comprehensive, and timely consideration of the respective positions.<sup>14</sup> Having carefully considered the record from the administrative proceedings and the

---

<sup>11</sup> Even at this appellate level, Rolling Hills’ position regarding the fingerprinting violations is troublesome. Plaintiff argues:

Even though, there was not “technical compliance” on these individuals, Rolling Hills submits, that contrary to the ASBCS conclusion and final order, the threat to the safety of its school children was non-existent. They were all from the Paulden Community. The founder and Principal Kay Deliman testified that Paulden is a small rural community where people know everybody’s business.

*Plaintiff’s Amended Opening Brief, p. 9.* At best, such an argument is naïve. At worst, it is downright dangerous.

<sup>12</sup> The depth of the Board’s concern was eloquently stated by Board member Onnie Shekerjian during the May 9, 2005 meeting. See Transcript, pp. 39-40.

<sup>13</sup> Another factor supporting such a belief is Rolling Hills’ claim that it was not required to follow the Open Meeting Laws -- comparing itself to a vendor that merely provides services to the State. It asserts this claim notwithstanding the existence of Attorney General Opinion I95-10, which was issued in 1995 -- well before the issues in the instant case arose. If the School truly believed that it was exempt from the Open Meeting Laws, a more appropriate course of action would have been to obtain a legal opinion or otherwise challenge the Attorney General’s opinion. The Board should properly be concerned about a school that appears to simply flout the law.

<sup>14</sup> The record does not establish which Board members did or did not read the entire transcript of the evidentiary hearing. The fact that the full transcript was not included in each Board member’s packet does not prove that only

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2005-000430-001 DT

03/20/2006

parties' arguments on appeal, the court concludes that the Board's revocation decision is supported by substantial evidence and is not contrary to law, arbitrary and capricious, or an abuse of discretion.

**Conclusion**

Although this court is mindful of the benefits that Paulden Elementary School has conferred on its community, it cannot find the Board's revocation decision to be "unreasoning action, without consideration and in disregard for facts and circumstances."<sup>15</sup> At best, there is room for two opinions (e.g., the ALJ's and the Board's). This court does not function as a "tie-breaker" by determining which conclusion it prefers. It merely decides whether any reasonable interpretation of the record supports the Board's final decision. That standard is amply met in the case at bar.

IT IS ORDERED affirming the decision of the Arizona State Board for Charter Schools. Plaintiff's requested relief is denied.

By order dated June 20, 2005, the Superior Court issued a stay of the Board's revocation decision. This court is inclined to continue that stay in effect through the end of the current school year. If the Board objects to such an extension, it should file written objections within 10 days. Otherwise, counsel should lodge an order continuing the stay in effect through a date certain (which should be the last day of this school year.)

/s/ Margaret H. Downie  
HON. MARGARET H. DOWNIE

---

one Board member reviewed the transcript, as plaintiff contends. The transcript was expressly made available to all Board members. Moreover, even assuming *arguendo* that the evidence supported plaintiff's contention, the Board's ensuing decision would not *a fortiori* be arbitrary and capricious.

<sup>15</sup> *Petras v. Arizona State Liquor Board*, 129 Ariz. 449, 452, 631 P.2d 1107, 1110 (App. 1981), *quoting Tucson Public Schools, District No. 1 of Pima County v. Green*, 17 Ariz. App. 91, 94, 495 P.2d 861, 864 (1972).